

REMARKS

The above-noted amendments are respectfully submitted in response to the official action dated January 15, 2008. It is first noted that the Examiner has acknowledged that claims 69-71, 75-80, 82-90, 93, and 98-106 have been rejected only as being dependent from a rejected base claim, but would be allowable if rewritten in independent form. The only independent claim in this group is, of course, claim 29. While the allowed claims have not been placed in independent form, claim 29 has been amended, and new claim 107 has been added hereto. In addition, claims 68, 70-73, 81, 91, 92, 94 and 95 have been amended to depend from new claim 107. It is believed that based on these amendments, and the following comments, these claims all meet the Examiner's requirements for patentability, and such action is therefore respectfully solicited.

The aforementioned amendment to claim 29 incorporates the limitations of prior allowable claim 69 therein, and claim 69 has now been canceled. New claim 107, on the other hand, corresponds to prior claim 29, but now includes the following additional limitation therein: "control means for controlling both the opening and closing of said sphincter mechanism enclosed entirely within said artificial urinary diversion apparatus. . . ."

In this regard, applicants expresses appreciation for the telephone conference with the Examiner on or about April 3, 2008. During that conversation, applicants' attorney brought to the Examiner's attention the fact that the Guiset reference now being relied upon for anticipation of claims 29, 68, 72-74, 81, 92, 95 and 97 has been previously cited, discussed and overcome by applicants. The Examiner, on the other hand, stated that Guiset was now being once again relied upon because of the Examiner's reinterpretation of this reference. The Examiner

thus stated that he believed that the "control means" did not appear to be located outside of the device because that element in Guiset is interpreted to comprise the chamber 22 of collar 16, and not to include the reservoir 23. It appears to be the Examiner's position that the collar 16 could close the sphincter even if it could not open it without operation of reservoir 23, and therefore it could be qualified as being "control means" as required. In that regard, and based upon that discussion, claim 107 as noted specifically requires that the control means control both the opening and closing of the sphincter mechanism, and that it be enclosed entirely within the artificial urinary diversion apparatus hereof. This added limitation in claim 107 is clearly supported in the specification, and no new matter is included therein.

Claims 29, 67, 68, 70, 72, 83, 74, 81, 92, 92, 94, 95, 96 and 97 have been rejected on the basis of obviousness-type double patenting over certain of the claims in U.S. Patent No. 7,131,996. Without admitting any relationship between these sets of claims, applicants has submitted herewith a terminal disclaimer with respect to the claims of the '996 Patent, and thus it is therefore clear that this objection has now been obviated.

Claims 29, 68, 72-74, 81, 92, 95 and 97 have been rejected as anticipated by Guiset under 35 U.S.C. § 102(b). The Examiner contends that Guiset discloses the same invention comprising a first section with an outlet sphincter 4 and a pressure valve 22, means for controlling it, a middle second section that is smaller in cross-section to an upper section comprising an inlet 3 and a pump 23. This rejection is respectfully traversed in view of the above amendments and arguments and for the reasons set forth hereinafter.

Turning to claim 107, it is clear that this claim patentably distinguishes over Guiset. Claim 107 thus now

specifically requires not only that the artificial urinary diversion apparatus hereof include a sphincter mechanism for opening and closing the outlet in the first area, but also includes control means for controlling the sphincter mechanism in which this mechanism, and most particularly the control means itself, is adapted for controlling both the opening and closing of the sphincter mechanism, and that it be entirely enclosed within the artificial urinary diversion apparatus itself.

As has thus been previously pointed out, and turning to Guiset itself, this patent discloses a sphincter mechanism for the lower aperture 4 which includes an inflatable collar 16 provided in a normally closed configuration, except during urination periods. Thus, the specification of Guiset states that "it does not seem absolutely necessary to provide it with a device to induce it to open when it is desired to induce urination." (Col.3 ll.56-59.) Operation of this device is thus entirely controlled by manipulation of a reservoir 23, which is totally external to the artificial bladder shown in this reference. Thus, collar 16, which contains a fluid under a fixed pressure, is opened when the pressure in cavity 2 increases above a predetermined threshold level following an external impulse created upon flexible zone 26 of reservoir 23. In this manner, the fluid 24 contained within reservoir 23 is pressurized. By pressure being applied to flexible zone 26 by the user pressing upon his abdominal wall 32, fluid 24 is thereby forced to flow from reservoir 23 by means of flexible zone 26 of wall 25 into passage 28. This, in turn, inflates small balloon 27 within cavity 2, overcoming the pressure on lower collar 16, and thereby causing evacuation of this device. It is clear beyond question that any device in Guiset which could conceivably be considered to be equivalent to the sphincter control mechanism of applicants' invention, and which control mechanism controls both the opening and closing of the

sphinctor itself, is external to the outer surface of the urinary diversion apparatus thereof, as opposed to the requirement of the present claims that the sphincter control mechanism for controlling both the opening and closing of the sphincter mechanism be enclosed entirely within the device itself.

It is therefore respectfully submitted that in addition to all of the other claims which are already considered to be allowable, claim 107 is also allowable and clearly distinguishes over Guiset for the reasons set forth above.

In view thereof, as well as the inclusion of a terminal disclaimer herewith, it is thus believed that all of the claims in this application are now clearly in condition for allowance, and such action is therefore respectfully solicited.

As it is believed that all of the rejections set forth in the Official Action have thus been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he/she telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

Application No.: 09/936,721

Docket No.: HAMMON 3.3-002

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,

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